

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Petitioner,

v.

JAMES ROSS MELLON II, VIVIAN  
RUESCH,

Taxpayer-Respondents.

DECLARATION OF  
GARY FRANGIPANE

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DOC # 3

FILED  
U.S. DISTRICT COURT  
2016 DEC 12 PM 4:24  
S.D. OF N.Y.

Gary Frangipane, pursuant 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am a duly commissioned Revenue Agent employed in the Large Business and International Division, International Individual Compliance, of the Internal Revenue Service (“IRS”). I am authorized to issue IRS summonses under 26 U.S.C. § 7602 and 26 C.F.R. § 301.7602-1. I work at 290 Broadway, Sixth Floor, New York, New York 10007.

2. In my capacity as Revenue Agent, I am conducting an investigation concerning the federal income tax liabilities of James Ross Mellon II for tax years 2005 and 2011 (the “Mellon Relevant Tax Period”) and of Mr. Mellon’s wife, Vivian Ruesch (together with Mr. Mellon, the “Taxpayers”), for tax years 2005 through 2012 (the “Ruesch Relevant Tax Period” and, together with the Mellon Relevant Tax Period, the “Relevant Tax Periods”). This declaration is based on my personal knowledge and on information contained in IRS files relating to the Taxpayers.

3. Mr. Mellon was born in Philadelphia, Pennsylvania in 1942. He is a member of the Mellon family—founders of Mellon Bank (today BNY Mellon NA), Gulf Oil (today Chevron Oil Company), and financiers of U.S. Steel Corporation, Alcoa Corporation, Westinghouse

Corporation, and several other major U.S. corporations. Forbes magazine estimated the Mellon family fortune in excess of \$10 billion, which is divided among approximately 100 family members.

4. Ms. Ruesch, a Swiss-born Italian citizen, became a United States permanent resident in 1989. She resides at 1107 Fifth Avenue, Apt. 8N, New York, New York 10128, a prewar building overlooking Central Park. I believe this to be Mr. Mellon's last and usual place of abode, for the reasons set forth in Paragraph 23.

5. Mr. Mellon and Ms. Ruesch were married in Italy in 1985. They have three daughters, all U.S. citizens raised in the United States.

**ADDITIONAL BACKGROUND ON MR. MELLON**

6. Mr. Mellon renounced his United States citizenship in 1977 and received a Certificate of Loss of Nationality from the U.S. Department of State on February 16, 1978. Mr. Mellon now holds a passport from the British Virgin Islands.

7. In a conversation with me, Mr. Mellon's former attorney characterized Mr. Mellon as a "tax protester." According to the press, Mr. Mellon has acknowledged that he travels frequently to avoid paying taxes anywhere in the world.

8. To date, my investigation has revealed that Mr. Mellon often spends more than half of the year in the United States and that he meets the substantial presence test set forth in 26 U.S.C. § 7701(b)(3) for each calendar year in the Mellon Relevant Tax Period. Consequently, pursuant to Section 7701 of the Internal Revenue Code, Mr. Mellon was a resident alien during the Mellon Relevant Tax Period. 26 U.S.C. § 7701. Resident aliens are generally required to report and pay United States taxes on their worldwide income. *Id.*

9. Mr. Mellon has not filed United States federal income tax returns for 2005 through 2011.

10. My investigation has also revealed that Mr. Mellon has beneficial ownership of a number of foreign accounts and foreign entities. In my experience as a Revenue Agent in Individual International Compliance, the use of offshore accounts and entities often indicates the existence of taxable income. For example, my investigation has shown that Mr. Mellon invested in United States securities without disclosing his identity as the beneficial owner of these securities, using British Virgin Island corporations and a Liechtenstein entity he controlled.

11. Mr. Mellon, together with Ms. Ruesch and their daughters, has beneficial ownership of a house in the Hamptons: 459 First Neck Lane, Southampton, NY.

12. Mr. Mellon conducts business in New York, including publishing books with a New York-based publisher.

#### **ADDITIONAL BACKGROUND ON MS. RUESCH**

13. When I began my investigation of Ms. Ruesch's federal tax liabilities, she had not filed federal income tax returns for any of the Ruesch Relevant Tax Period.

14. After I contacted Ms. Ruesch, she applied for pre-clearance to the IRS's Offshore Voluntary Disclosure Program; she was advised she was not eligible, because of my pending investigation.

15. Ms. Ruesch subsequently filed late federal income tax returns for each of these tax years, but reported less than \$10,000 in gross income each year from 2005 to 2009; less than \$20,000 in gross income for each of 2010 and 2011; and less than \$50,000 in gross income for

2012. She has advised me, through counsel, that she does not work and that her credit card bills are paid by Mr. Mellon.

16. Ms. Ruesch has been involved in Mr. Mellon's structuring and maintenance of his finances, including the creation of foreign entities. Ms. Ruesch has witnessed Mr. Mellon's signature on the formation documents for foreign entities, she is listed as an "authorized person" in the records establishing one of the foreign entities owned by Mr. Mellon, and she appears as the contact person on many of Mr. Mellon's financial documents.

17. Ms. Ruesch has an Italian Bank account with UniCredit Banca di Roma. As noted below, in Paragraph 34, Ms. Ruesch provided me with redacted statements from this bank account. These statements report deposits from an unidentified foreign account of Mr. Mellon's, which could reflect taxable income. From 2009 to 2012, these statements show deposits of more than € 195,000 from Mr. Mellon's account into Ms. Ruesch's account. Ms. Ruesch has refused to provide additional details regarding these deposits. These statements also show regular withdrawals of thousands of Euros in cash; in some cases, € 15,000 or more.

18. Through her attorney, Ms. Ruesch has advised me that she is still married to Mr. Mellon but that they live separate lives. However, I have inspected travel records that indicate Ms. Ruesch and Mr. Mellon continue to travel together, and they continue to appear in public together as a married couple.

### **The March 10 Summons**

19. In furtherance of my investigation of Mr. Mellon's federal tax liability, on March 10, 2014, I issued an IRS summons to Mr. Mellon (the "March 10 Summons"). A copy of the March 10 Summons is attached hereto as Exhibit 2.<sup>1</sup>

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<sup>1</sup> Respondents' Social Security Numbers have been redacted on the copies of the Summonses attached to the Petition, to protect their privacy.

20. The March 10 Summons directed Mr. Mellon to appear on April 30, 2014, for the purpose of giving testimony and producing for examination the documents set forth therein, on topics which include:

- Mr. Mellon's foreign and domestic financial accounts, including bank accounts and brokerage accounts, during the Mellon Relevant Tax Period;
- Mr. Mellon's ownership or legal interest in domestic or foreign entities or structures during the Mellon Relevant Tax Period;
- Real estate and vehicles owned by Mr. Mellon during the Mellon Relevant Tax Period;
- Mr. Mellon's worldwide income during the Mellon Relevant Tax Period;
- Any foreign taxes paid by Mr. Mellon;
- Mr. Mellon's foreign travel and his time spent in the United States during the Mellon Relevant Tax Period; and
- Mr. Mellon's marital records.

21. Mr. Mellon's financial and tax records, his interest in domestic or foreign entities or structures, and the real estate and vehicles he owns are each relevant to show the source and extent of Mr. Mellon's income over these years, among other things. Mr. Mellon's travel records are relevant to Mr. Mellon's presence in the United States during the Mellon Relevant Tax Period, and thus the dates during which Mr. Mellon met the substantial presence test, among other things. Records concerning Mr. Mellon's marriage to Ms. Ruesch are relevant to Mr. Mellon's presence in the United States, to their interests in property in the United States and abroad, as well as to the proper calculation of any tax liability, among other things.

22. I served a copy of the March 10 Summons, which contained the attestation required by section 7603 of the Internal Revenue Code, on Mr. Mellon on March 11, 2014, at 2:45 p.m., by leaving that copy with Mr. A. Ortiz, the doorman, at 1107 Fifth Avenue, New

York, New York 10128. A copy of the relevant Service of Summons, Notice and Recordkeeper Certificates, Form 2039, is attached hereto as Exhibit 3.

23. I concluded that 1107 Fifth Avenue was Mr. Mellon's last and usual place of abode based on the following information. When Mr. Mellon opened a bank account with BNY Mellon in September 2012, he acknowledged in the account opening agreement that the Fifth Avenue address is his "Legal Address." Likewise, the Form 2848, Power of Attorney and Declaration of Representative, submitted to me on behalf of Mr. Mellon on December 17, 2012, states that Mr. Mellon's address is 1107 Fifth Avenue, New York, New York 10128. Mr. Mellon is the owner of cooperative apartment 8N at this address, and his wife Ms. Ruesch resides there. Mr. Mellon had routinely acknowledged receipt of mailings I have sent to this address. One month before serving the March 10 Summons, on February 10, 2014, I mailed a Formal Document Request to Mr. Mellon at 1107 Fifth Avenue; he responded through counsel on May 7, 2014, refusing to disclose the requested information and asserting that "he is not subject to jurisdiction" within the United States.

24. Mr. Mellon did not appear on April 30, 2014, and he failed to produce any of the documents requested by the March 10 Summons. Nor did he produce a privilege log or otherwise assert any privilege with respect to the withheld documents.

**The December 5 Summons re: Mellon**

25. In furtherance of my investigation of the federal tax liability of Mr. Mellon, on December 5, 2014, I issued an IRS summons to Ms. Ruesch (the "December 5 Summons re: Mellon"). A copy of the December 5 Summons re: Mellon is attached hereto as Exhibit 4.

26. The summons directed Ms. Ruesch to appear on January 28, 2015, for the purpose of giving testimony and producing for examination the documents set forth therein, on topics which include:

- Mr. Mellon's foreign and domestic financial accounts, including bank accounts and brokerage accounts, during the Mellon Relevant Tax Period;
- Mr. Mellon's ownership or legal interest in domestic or foreign entities or structures during the Mellon Relevant Tax Period;
- Real estate and vehicles owned by Mr. Mellon during the Mellon Relevant Tax Period;
- Mr. Mellon's worldwide income during the Mellon Relevant Tax Period;
- Any foreign taxes paid by Mr. Mellon;
- Mr. Mellon's foreign travel and his time spent in the United States during the Mellon Relevant Tax Period; and
- Mr. Mellon's marital records.

27. These records are relevant to my investigation for the reasons stated above, in Paragraph 21. As noted above, in Paragraph 16, Ms. Ruesch has been involved in Mr. Mellon's structuring and maintenance of his finances.

28. I served a copy of the December 5 Summons re: Mellon, which contained the attestation required by section 7603 of the Internal Revenue Code, on Ms. Ruesch on December 12, 2014, at 2:00 p.m., by leaving that copy with Mr. A. Ortiz, the doorman, at Ms. Ruesch's last and usual place of abode, 1107 Fifth Avenue, New York, New York 10128. On December 15, 2014, at 9:00 a.m., I gave notice by certified or registered mail to Mr. Mellon at his last known address as of that date, Chalet Ivalu, Talstrasse 40, 7250 Klosters, Switzerland. A copy of the relevant Service of Summons, Notice and Recordkeeper Certificates, Form 2039, is attached hereto as Exhibit 5.



29. Ms. Ruesch did not appear on January 28, 2015, and failed to produce any of the documents requested by the December 5 Summons re: Mellon. Her counsel advised that she objected to the December 5 Summons re: Mellon “on spousal privilege grounds, and to the extent that privilege might not apply, improper motive, based on the investigation that the IRS has undertaken against Mr. Mellon.” She failed to produce a privilege log in response to the summons identifying documents that had been withheld and the basis for withholding each document on a document-by-document basis.

**December 5 Summons re: Ruesch**

30. In furtherance of my investigation of the federal tax liability of Ms. Ruesch, on December 5, 2014, I issued an IRS summons to Ms. Ruesch (the “December 5 Summons re: Ruesch”). A copy of the December 5 Summons re: Ruesch is attached hereto as Exhibit 6.

31. The summons directed Ms. Ruesch to appear on January 28, 2015, for the purpose of giving testimony and producing for examination the documents set forth therein, on topics which include:

- Ms. Ruesch’s foreign and domestic financial accounts, including bank accounts and brokerage accounts, during the Ruesch Relevant Tax Period;
- Ms. Ruesch’s ownership or legal interest in domestic or foreign entities or structures during the Ruesch Relevant Tax Period;
- Real estate and vehicles owned by Ms. Ruesch during the Ruesch Relevant Tax Period;
- Ms. Ruesch’s worldwide income during the Ruesch Relevant Tax Period;
- Any state, local, or foreign taxes paid by Ms. Ruesch;
- Ms. Ruesch’s foreign travel and her time spent in the United States during the Ruesch Relevant Tax Period; and
- Ms. Ruesch’s marital records.



32. Ms. Ruesch's financial and tax records, her interest in domestic or foreign entities or structures, and the real estate and vehicles she owns are each relevant to show the source and extent of her income over these years, among other things. Her travel records are relevant to her reported level of income, among other things. Records concerning Ms. Ruesch's marriage to Mr. Mellon are relevant to their interests in property in the United States and abroad, as well as to the proper calculation of any tax liability, among other things.

33. I served a copy of the December 5 Summons re: Ruesch, which contained the attestation required by section 7603 of the Internal Revenue Code, on Ms. Ruesch on December 12, 2014, at 2:00 p.m., by leaving that copy with Mr. A. Ortiz, the doorman, at Ms. Ruesch's last and usual place of abode, 1107 Fifth Avenue, New York, New York 10128. A copy of the relevant Service of Summons, Notice and Recordkeeper Certificates, Form 2039, is attached hereto as Exhibit 7.

34. Ms. Ruesch did not appear on January 28, 2015. She did produce documents responsive to some of the requests included in the December 5 Summons re: Ruesch, through counsel, but refused to produce documents responsive to any of the other requests, raising a blanket objection to further production based on her Fifth Amendment right against self-incrimination. Many of the documents she did produce were redacted, and her counsel declined to provide document-by-document explanations, stating only that, in general, "the redactions are due to either: the information being outside the scope of the request, our client's assertion of her fifth amendment rights, attorney client privilege, attorney work product privilege, and/or IRC section 7525." She failed to produce a privilege log identifying documents that had been withheld or redacted and the reasons for withholding or redacting each document on a document-by-document basis.

35. The documents sought by each of the March 10 Summons, the December 5 Summons re: Mellon, and the December 5 Summons re: Ruesch—excepting Request Numbers 5, 6(b), and 8 of the March 10 Summons and Request Number 10 of the December 5 Summons re: Ruesch, as the United States is not petitioning to enforce the Summonses with respect to these requests—are not already in the possession of the IRS, except for limited records identified in Exhibit 1 and a small number of documents received from a confidential informant or pursuant to international treaties, which reveal foreign entities and financial accounts I have identified as owned or controlled by one or both of the Respondents. The IRS is not inclined at this time to reveal documents provided from the confidential informant unless it should become necessary to do so. The confidential informant has cooperated on the understanding that the documents would be kept confidential to the greatest extent possible. Likewise, the IRS is not inclined at this time to reveal documents obtained through treaties unless it should become necessary to do so. These documents would reveal to Respondents which foreign entities and accounts the IRS has identified, potentially enabling Respondents to withhold records concerning as-yet-unidentified foreign entities and accounts. The bulk of the information requested in the Summonses is not in the possession of the IRS.

36. The testimony and documents requested by both the March 10 Summons and the December 5 Summons re: Mellon will assist the IRS in its investigation to determine Mr. Mellon's federal tax liabilities for the Mellon Relevant Tax Period.

37. The testimony and documents requested by the December 5 Summons re: Ruesch will assist the IRS in its investigation to determine Ms. Ruesch's federal tax liabilities for the Ruesch Relevant Tax Period.

38. All administrative steps required by Title 26 of the United States Code for the issuance of a summons were followed for each of the March 10 Summons, the December 5 Summons re: Mellon, and the December 5 Summons re: Ruesch.

39. As of the date on which each of the Summonses were issued and served, and as of the day that I sign this declaration, there was and is no "Justice Department referral," as that term is defined in 26 U.S.C. § 7602(d), with respect to the Taxpayers for the Relevant Tax Periods.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5<sup>th</sup> day of December, 2016.

  
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Gary Frangipane  
Revenue Agent

# EXHIBIT 1

(redacted)

**Documents in IRS Possession**

BNY Mellon Account Statements for:

PERIOD: January 2005 through December 2010

PERIOD: January 2005 through December 2010

PERIOD: January 2005 through December 2010

BNY Account Agreement signed 2012

Merrill Lynch Account Statements, Wire transfer details and Correspondence for:

PERIOD: January 2005 through December 2011

PERIOD: January 2005 through December 2011

2011 Form W-8 prepared for Merrill Lynch

Morgan Stanley Smith Barney Account Statements:

PERIOD: January 2007 through August 2011

Citigroup Smith Barney Account Statements

PERIOD: February 2006 through December 2006

Legg Mason Account Statements

PERIOD: January 2005 through January 2006

Charles Schwab Account Statements, Wire Transfer details, Account Opening Documents and correspondence:

PERIOD: JULY 2007 through December 2011

UBS:

YEARS: Period: April 2007

1107 Fifth Avenue Proprietary Lease - Undated & Unsigned

Public records for :

1107 Fifth Avenue, New York, NY

459 First Neck Lane, Southampton NY

1107 Fifth Avenue Proprietary Lease - Undated & Unsigned

Information returns filed with the Internal Revenue Service for Mr. Mellon for the years 2005 through 2011 including Forms 1042-S, Forms 1099-Misc and Schedules K-1.

Royalty Statements and checks issued by Grove Atlantic for tax years 2005 through and including 2011  
Royalty Statement issued by Harcourt Inc. dated May 12, 2003, June 16, 2004.

1994 British Overseas Territory Citizen passport for Mr. Mellon

Copy of 2004 British Overseas Territory Citizen for Mr. Mellon

New York State Driver License issued to Mr. Mellon 5-26-2001 and expiring on 6-25-2009

Public records listed registration for a 1987 Volvo Station Wagon in New York state with records to 1998

Listing of US border crossings and airline travel histories for Mr. Mellon (2005 through 2011)

Valerie Wilson Air Travel Activity for Mr. Mellon (2005 through 2011)

- Aer Lingus flights August 2010
- Air India flights October 2005 and May 2009
- Air Tahiti flights January 2006, October 2011 and November 2011
- Al Italia flights December 2009 through August 2010
- American Airlines flights January 2009 through December 2010
- British Airways flights January 2010 and December 2010
- Continental Airways flights January 2009 through December 2010
- Delta Airlines flights June 2006 through May 2012
- United Airlines flights May 2009 through December 2010

Forms 1042-S issued by domestic trusts for Mr. Mellon.

FBARs for Ms. Ruesch for 2008 through 2012

Account document - Empfangsschein (Bates VR000009)

Raiffeisen account document - Kennwort Vereinbarung (Bates VR00010)

Raiffeisen account document [REDACTED] (Bates VR00011-VR00019)

Raiffeisen account [REDACTED] document (Bates VR000020-VR000022)

Raiffeisen account [REDACTED] document (Bates VR000023-VR000033)

Raiffeisen account document [REDACTED] (Bates VR000034-VR000123)

Raiffeisen account document [REDACTED] (Bates VR000124-VR000151)

Graubiindner Kantonalbank account [REDACTED] documents (Bates VR000152-VR000161)

UBS AG account [REDACTED] document (Bates VR000162-VR000171)

Banca di Roma account [REDACTED] document (Bates VR000172-VR000220)

UniCredit Banca di Roma account [REDACTED] document (Bates VR000221-VR000275)

Vehicle registrations:

- 1992 Chevrolet K1500
- 2006 Mercedes-Benz E3504M
- 1998 Land Rover Range

Copy of photo page of Italian passport issued to Ms. Ruesch September 29, 2005

U.S. federal tax returns for Ms. Ruesch for 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012

Document related to marriage between Vivian Ruesch and James Ross Mellon (Bates VR000001)

Documents related to Hans Ruesch (Bates VR000002-VR000007)

# EXHIBIT 2

## (redacted)





# Summons

In the matter of James R. Mellon

Internal Revenue Service (Division): Large Business & International

Industry/Area (name or number): International Individual Compliance, Team 1561

Periods: January 1, 2005 through December 31, 2011

## The Commissioner of Internal Revenue

To: JAMES ROSS MELLON II

At: 1107 FIFTH AVENUE APT 8N, NEW YORK NY 10128

You are hereby summoned and required to appear before Gary Frangipane and/or designee, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

SEE ATTACHMENTS (7 pages)

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

290 Broadway, 6th Floor, New York, NY 10007 (212) 436-1235

Place and time for appearance at Internal Revenue Service, 290 Broadway, 6th Floor, New York, NY 10007



Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 10-2010)  
Catalog Number 21405J

on the 30th day of April, 2014 at 10 o'clock a m.

Issued under authority of the Internal Revenue Code this 10 day of March, 2014

**Gary Frangipane**

Digitally signed by Gary Frangipane  
DN: cn=Gary Frangipane, o=Internal Revenue Service, ou=IC Group 1561,  
email=gary.frangipane@irs.gov, c=US  
Date: 2014.03.07 17:04:38 -0500

Signature of issuing officer

**Anthony Duca**

Signature of approving officer (if applicable)

**Internal Revenue Agent**

Title

**Supervisory Internal Revenue Agent**

Title

Original — to be kept by IRS

**ATTACHMENT FOR  
FORM 2039 SUMMONS  
JAMES ROSS MELLON II**

**BANK RECORDS**

1. For each of the following requests, produce the requested information for both domestic and foreign accounts, include every account over which you had signature authority and/or other authority and/or over which you exercised control during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011. These requests include, but are not limited to, your personal accounts, business accounts, rental accounts, trust accounts, IBC accounts, LLC accounts, other corporate accounts.
  - A. Produce any and all records required to be maintained pursuant to 31 C.F.R. §1010.420 (§103.32 prior to March 1, 2011) relating to foreign financial accounts that you had/have a financial interest in, or signature authority over, including records reflecting the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during each specified year.
  - B. For each account produce the documents identifying the bank and/or financial institution name, address, and telephone number.
  - C. For each bank account, produce all documents in your possession, custody, and control including, but not limited to:
    - a. Account application (regardless of date)
    - b. Monthly or periodic statements
    - c. Wire transfer authorizations and confirmations
    - d. Deposit slips and deposited items
    - e. Credit and debit memos and advices
    - f. Canceled checks
    - g. Passbooks
    - h. Certificates of deposit
    - i. Letters of credit
    - j. Money orders
    - k. All correspondence
    - l. All memorandum files maintained by the bank reflecting communications with yourself or anyone on your behalf

- m. All documents verifying the origin of all funds used to open the accounts or deposited into the accounts (regardless of date)
  - n. Signature cards (regardless of date)
  - o. Substantiation of expenses associated with the account
- D. For each bank account, produce the Know Your Customer Account information given to and maintained by the bank by you or on your behalf, including but not limited to all account set up documents (regardless of date), such as signature cards, opening deposit slips, passport copies, certificates of beneficial ownership, letters of reference, certificates of clean funds and/or other sources of Anti-Money Laundering documentation.
- E. For each certificate of deposit, time deposit or equivalent account, produce all statements reflecting the purchase, earnings, basis, redemption and disposition of the deposit account.
- F. For all transfers of funds between any and all bank accounts and/or financial accounts, produce:
  - a. List of transfers
  - b. Documents showing the source of the funds transferred
  - c. Documents showing the deposits of funds transferred
  - d. Advice memos, correspondence or other directions the taxpayer sent or received
- G. All documents relating to foreign and domestic credit, debit, ATM or charge accounts produce:
  - a. Original cards (the IRS will make copies and return to you)
  - b. Card applications (regardless of date)
  - c. Agreements (regardless of date)
  - d. Customer relationship records identifying the persons with any authority over the accounts
  - e. Monthly or periodic statements
  - f. Charge receipts
  - g. Cash advance confirmations
  - h. Payments documentation whether paper, electronic or other media

#### **BROKERAGE ACCOUNTS, MUTUAL FUNDS, AND SECURITY ACCOUNTS**

2. For each of the following requests produce the requested information for both domestic and foreign brokerage accounts, mutual funds and security accounts, include

every account over which you had signature authority and/or other authority and/or over which you exercised control during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011. Include accounts controlled directly, indirectly, through nominees, agents, powers of attorney, letters of direction and any device whatsoever. These requests include, but are not limited to your personal accounts, business accounts, rental accounts, trust accounts, IBC accounts, LLC accounts, other corporate accounts.

- A. Produce any and all records required to be maintained pursuant to 31 C.F.R. §1010.420 (§103.32 prior to March 1, 2011) relating to foreign financial accounts that you had/have a financial interest in, or signature authority over, including records reflecting the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during each specified year.
- B. For each bank account, produce all documents in your possession, custody, control, including but not limited to:
  - a. Account application (regardless of date)
  - b. Monthly or periodic statements
  - c. Annual account summaries
  - d. Performance reports
  - e. Directions given to the financial institution on investment strategies and diversification
  - f. Authorizations and confirmations on specific trades
  - g. Substantiation of basis for all stocks and other investments held in the accounts
  - h. Wire transfer authorizations and confirmations
  - i. All correspondence
  - j. All memorandum files maintained by the bank reflecting communications with yourself and/or anyone on your behalf
  - k. All documents verifying the origin of all funds used to open the accounts or deposited into the accounts (regardless of date)
  - l. Substantiation of expenses associated with the accounts

#### **OWNERSHIP OF ENTITIES AND STRUCTURES**

3. For each of the following requests, produce the requested information for both domestic and foreign entities/structures, include each entity/structure in which the taxpayer exercised control and/or held an ownership interest, legal interest, fiduciary

interest and/or beneficial interest at any time during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011.

- A. For each entity/structure, produce all documents relating to the creation and operation of each entity/structure including but not limited to:
  - a. Organizational documents, deeds of incorporation, by-laws, registrations, articles of incorporation, statutes, memoranda of association, partnership agreements, joint venture agreements (regardless of date)
  - b. Ownership documents including those reflecting your percentage of legal ownership, percentage of beneficial ownership, and all changes of ownership (regardless of date)
  - c. Stock book records
  - d. Documents designating beneficiaries, designating trustees, designating protectors, designating partners, designating percentage ownership
  - e. Correspondence files
  - f. Powers of attorney, letters of wishes, letters of direction or similar documents granting authority to agents to act on behalf of the entity/structure
- B. For each entity/structure, produce all books and records including, but not limited to:
  - a. General ledgers
  - b. General journals
  - c. Sales journals and similar records of sales
  - d. Cash receipt journals and similar records of cash receipts
  - e. Cash disbursement journals and similar records of cash disbursements
  - f. Account payable journals and similar records of accounts payable
  - g. Payroll journals and similar records of payroll
  - h. Sales invoices
  - i. Real estate closing records
  - j. Minute books
  - k. Contracts and agreements
  - l. Records of bank, brokerage and other investment accounts
  - m. Financial statements-both audited and unaudited-including but not limited to income statements and balance sheets
  - n. Rental agreements

- o. Documents reflecting rental income and expenses
  - p. Correspondence files
  - q. Certificates of good standing
  - r. Records reflecting the names, street addresses, e-mail addresses and telephone numbers of the owners
  - s. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the board of directors, board of supervisors and managing directors
  - t. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the officers and all employees
  - u. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of all business partners
  - v. All records of dissolution, termination, name change, winding up or similar record of cessation of operations
  - w. Foreign tax returns
- C. For each entity/structure produce all documents distributed, sent and/or transmitted by or to any legal, fiduciary and/or beneficial owners to and from professionals (e.g., attorneys, accountants, bankers, brokers, trust advisory, etc.), including but not limited to contracts, agreements, advisories, schedules, letters, memoranda, notes and instructions.
- D. For each entity/structure, produce documents reflecting the name, address and telephone number of the person(s) controlling the assets of the entity/structure.
- E. All written contracts, agreements, and all other documents pertaining to the assignment and transfer of ownership interest in and rights to use the real, personal or intangible property to you or on your behalf.
- F. All powers of attorney giving you authority to act on behalf of any person or entity.
- G. All powers of attorney executed by you giving another the authority to act on your behalf or on behalf of any person or entity over which you exercised control.
- H. All certificates of beneficial ownership, stock certificates, including bearer shares or other similar evidence of ownership interests owned by the taxpayer.
- I. All profession and commercial licenses owned by you directly or indirectly

#### **PERSONAL OWNERSHIP**

4. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011:
- A. All documents reflecting real estate owned by you directly or indirectly including but not limited to purchase and sale agreements, mortgages, deeds, closing documents, property records, tax records, and insurance records.
  - B. All records reflecting income earned by you worldwide.
  - C. All records reflecting your U.S. sources of income and withholding

**NON-TAXABLE SOURCES OF INCOME**

5. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011:
- A. All documents reflecting any inheritance, foreign or domestic, that you received (regardless of date), including but not limited to the will, documents identifying you as a beneficiary of the estate, documents reflecting the assets of the estates and all probate documents.
  - B. All documents reflecting commercial and private loans made or obtained by you or on your behalf and which was in existence during any of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, including but not limited to, application (regardless of date), agreements and contracts and promissory notes (regardless of date), records of payment.
  - C. All records pertaining to any non-taxable source of income including but not limited to gifts, insurance settlements, tax refunds, and tax exempt interest.

**TRAVEL**

6. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011:
- A. Original U.S. passports, both current and expired
  - B. Original foreign passports, both current and expired
  - C. Current state driver's license (US) and all foreign driver's licenses
  - D. All vehicle registrations and similar documents reflecting vehicle ownership
  - E. All records of worldwide travel including but not limited to commercial transportation, private leasing, visas, hotel expenses
  - F. All voter registration cards and similar documents
  - G. List of locations where the taxpayer resides when he is in the U.S.

**OTHER**

7. Produce all of the taxpayer's calendars for the year(s) 2005, 2006, 2007, 2008, 2009, 2010, 2011; including paper and electronic calendars and similar documents.



8. You submitted a Merrill Lynch account statement to the IRS that bears the social security number [REDACTED]. Explain whose account this is.
9. Produce documents establishing the number of days Mr. Mellon was present outside of the United States during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011.
10. Produce complete copies of all foreign tax returns filed for the years 2005, 2006, 2007, 2008, 2009, 2010, 2011.
11. Produce complete copies of documents reflecting payment of tax for years 2005, 2006, 2007, 2008, 2009, 2010, 2011 in amounts exceeding \$1,000.00 USD.
12. You have indicated that the taxpayer may be divorced. Provide a copy of the divorce decree, separation agreement and other documents reflecting the taxpayer's marital status.
13. Produce the documents related to the apartment located at 1107 Fifth Avenue 8N reflecting your ownership, rental or other documents reflecting who occupies the unit, who owns the unit and any income generated by the unit.

# EXHIBIT 3



# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

MARCH 11 2014

Time

2:45 PM

How  
Summons  
Was  
Served

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): A. Ortiz - Document

SIGNED BY

Signature: X A. Ortiz

Date: X 3/11

Printed Name: X A. Ortiz

Signature

[Signature]

Title

REVENUE AGENT

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: \_\_\_\_\_

Time: \_\_\_\_\_

Name of Noticee: James R Mellon

NA

Address of Noticee (if mailed): \_\_\_\_\_

How  
Notice  
Was  
Given

- ☐ I gave notice by certified or registered mail to the last known address of the noticee.
- ☐ I gave notice by handing it to the noticee.
- ☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.
- ☒ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).
- ☒ No notice is required.

Signature

[Signature]

Title

REVENUE AGENT

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title

# EXHIBIT 4



# Summons

In the matter of James R MellonInternal Revenue Service (Division): Large Business & InternationalIndustry/Area (name or number): International Individual CompliancePeriods: for the tax periods ended December 31, 2005, 2006, 2007, 2008, 2009, 2010, and 2011

## The Commissioner of Internal Revenue

To: Vivian RueschAt: 1107 5th Avenue, Apt 8N, New York, NY 10128

You are hereby summoned and required to appear before Gary Frangipane and/or designee  
an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers,  
and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the  
administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

SEE ATTACHMENT 1

NOTE: If you send the documents in advance of the appearance date, please mark the package "Documents in  
Response to Third Party Summons."

Do not write in this space

**Business address and telephone number of IRS officer before whom you are to appear:**290 Broadway, 6th FL, Group #1561, New York, NY 10007 / (212) 436-1235**Place and time for appearance at** 290 Broadway 6th Floor, New York, NY 10007Department of the Treasury  
Internal Revenue Service[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 10-2010)

on the 28th day of January, 2015 at 1:00 o'clock p m.Issued under authority of the Internal Revenue Code this 5th <sup>(year)</sup> day of December, 2014 <sup>(year)</sup>**Gary Frangipane**Digitally signed by Gary Frangipane  
DN: cn=Gary Frangipane, o=Internal Revenue Service, ou=IRS Group  
1561, email=gary.frangipane@irs.gov, c=US  
Date: 2015.12.05 15:54:59 -0500

Revenue Agent

**Anthony Duca**

Signature of issuing officer

Digitally signed by Anthony Duca  
DN: cn=Anthony Duca, o=Department of the Treasury, ou=Internal  
Revenue Service, ou=People, serialNumber=433423, cn=Anthony Duca  
Date: 2014.12.05 15:15:14 -0500

Title

Supervisory Revenue Agent

Title

Signature of approving officer (if applicable)

ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Mr. James Mellon

**FINANCIAL RECORDS**

1. For each of the following requests, produce the requested information for both domestic and foreign bank accounts, brokerage accounts, mutual funds, security accounts and any other financial account held by James Mellon at any time during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, either directly or indirectly, and for which you have possession of the records whether or not you can exercise control over the accounts(s).

- A. For each bank account, produce all documents in your possession, custody, and control including, but not limited to:
- a. Account application (regardless of date)
  - b. Monthly or periodic statements
  - c. Wire transfer authorizations and confirmations
  - d. Deposit slips and deposited items
  - e. Credit and debit memos and advices
  - f. Canceled checks
  - g. Passbooks
  - h. Certificates of deposit
  - i. Letters of credit
  - j. Money orders
  - k. All correspondence
  - l. All memorandum files maintained by the bank reflecting communications with Mr. James Mellon or anyone on his behalf
  - m. All documents verifying the origin of all funds used to open the accounts or deposited into the accounts (regardless of date)
  - n. Signature cards (regardless of date)
  - o. Substantiation of expenses associated with the account
  - p. Substantiation of basis for all stock and other investments held in the accounts
  - q. Substantiation of all expenses associated with accounts

ATTACHMENT 1 for FORM 2039 SUMMONS

dated December 5, 2014

issued to Vivian Ruesch

in the matter of : Mr. James Mellon

**OWNERSHIP OF ENTITIES AND STRUCTURES**

2. For each of the following requests, produce documents in your possession for both domestic and foreign entities/structures owned and/or controlled by James Mellon and/or in which he held an ownership interest, legal interest, fiduciary interest and/or beneficial interest at any time during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011. :

- A. For each entity/structure, produce all records including, but not limited to:
  - a. Organizational documents, deeds of incorporation, by-laws, registrations, articles of incorporation, statutes, memoranda of association, partnership agreements, joint venture agreements (regardless of date)
  - b. Ownership documents including those reflecting Mr. James Mellon's percentage of legal ownership, percentage of beneficial ownership, and all changes of ownership (regardless of date)
  - c. Stock book records
  - d. Documents designating beneficiaries, designating trustees, designating protectors, designating partners, designating percentage ownership
  - e. Correspondence files
  - f. Powers of attorney, letters of wishes, letters of direction or similar documents granting authority to agents to act on behalf of the entity/structure
- B. For each entity/structure, produce all books and records including, but not limited to:
  - a. General ledgers
  - b. General journals
  - c. Sales journals and similar records of sales
  - d. Cash receipt journals and similar records of cash receipts
  - e. Cash disbursement journals and similar records of cash disbursements
  - f. Account payable journals and similar records of accounts payable
  - g. Payroll journals and similar records of payroll
  - h. Sales invoices
  - i. Real estate closing records
  - j. Minute books



ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Mr. James Mellon

- k. Contracts and agreements
  - l. Records of bank, brokerage and other investment accounts
  - m. Financial statements-both audited and unaudited-including but not limited to income statements and balance sheets
  - n. Rental agreements
  - o. Documents reflecting rental income and expenses
  - p. Correspondence files
  - q. Certificates of good standing
  - r. Records reflecting the names, street addresses, e-mail addresses and telephone numbers of the owners
  - s. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the board of directors, board of supervisors and managing directors
  - t. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the officers and all employees
  - u. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of all business partners
  - v. All records of dissolution, termination, name change, winding up or similar record of cessation of operations
  - w. Foreign tax returns
- C. For each entity/structure produce all documents distributed, sent and/or transmitted by or to any legal, fiduciary and/or beneficial owners to and from professionals (e.g., attorneys, accountants, bankers, brokers, trust advisory, etc.), including but not limited to contracts, agreements, advisories, schedules, letters, memoranda, notes and instructions.
- D. For each entity/structure, produce documents reflecting the name, address and telephone number of the person(s) controlling the assets of the entity/structure.
- E. All written contracts, agreements, and all other documents pertaining to the assignment and transfer of ownership interest in and rights to use the real, personal or intangible property to Mr. James Mellon or on his behalf.
- F. All powers of attorney giving Mr. James Mellon authority to act on behalf of any person or entity.

ATTACHMENT 1 for FORM 2039 SUMMONS

dated December 5, 2014

issued to Vivian Ruesch

in the matter of : Mr. James Mellon

- G. All powers of attorney executed by Mr. James Mellon giving another the authority to act on his behalf or on behalf of any person or entity over which he exercised control.
- H. All certificates of beneficial ownership, stock certificates, including bearer shares or other similar evidence of ownership interests owned by the Mr. James Mellon.
- I. All profession and commercial licenses owned by Mr. James Mellon directly or indirectly

**PERSONAL**

4. For each of the following requests, produce documents in your possession of records for both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2011:

- A. All documents reflecting real estate owned by Mr. James Mellon directly or indirectly including but not limited to purchase and sale agreements, mortgages, deeds, closing documents, property records, tax records, and insurance records.
- B. All documents reflecting real estate owned by Mr. James Mellon and/or any entity owned and/or controlled by either/both of you. Documents should include, but are not limited to purchase and sale agreements, mortgages, deeds, closing documents, property records, tax records, and insurance records.
- C. All documents reflecting automobiles, SUVs, RVs, trucks, boats and airplanes owned by Mr. James Mellon directly or indirectly including but not limited to purchase and sale agreements, titles, registration, property records, tax records and insurance records
- D. All records reflecting income earned by Mr. James Mellon worldwide.
- E. All records reflecting Mr. James Mellon's U.S. sources of income and withholding
- F. Mr. James Mellon's foreign tax returns
- G. All documents reflecting Mr. James Mellon's publishing contracts.
- H. All documents relating to Mr. James Mellon's publishing contracts and/or publishing activities and/or activities relating to his profession as an author.
- I. All documents reflecting payment relating to Mr. James Mellon's publishing and/or writing activities, including but not limited to advance payments, receipt of publishing royalties, and appearance fees.
- J. All documents reflecting Mr. James Mellon as the beneficiary of any foreign trust.

ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Mr. James Mellon

**INSTRUCTIONS FOR THESE REQUESTS—READ CAREFULLY**

1. The term "**document(s)**" is used in the broadest sense and includes all attachments. Document(s) includes any written, typed, photo static, recorded, or otherwise visually reproduced communications or presentations, whether comprised of letters, words, numbers, pictures, sounds, symbols, or any combination thereof. Document(s) refers to all written, printed, typed, graphically, visually or aurally reproduced material of any kind, or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed. Further, "documents" include, but are not limited to:
  - a. Items designated as internal, confidential, "not to be disclosed" or private;
  - b. All electronic mail (e-mail), whether on an electronic disk and/or any other system or device which saves e-mails, attachments, links; and
  - c. Videotapes, audiotapes, CDs, cassettes, DVDs, films, flash drives (memory sticks, etc.), microfilm, computer files, computer discs, computer programs and other electronic media.
2. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or, by reason of subsequent modification or notation, are no longer identical), each nonidentical copy is a separate "**document.**"
3. Ms. Ruesch has "**possession, custody, or control**" if she has actual or constructive possession of the document and/or can access the document upon inquiry and/or through a legal right to obtain the document.
4. All responsive documents in the Ms. Ruesch's possession, custody, or control should be provided, as well as all documents, in the possession, custody, or control of the her agents, employees, and/or representatives, including, but not limited to, responsive documents in the possession, custody, or control of Ms. Ruesch's lawyer(s), accountant(s), banker(s), advisor(s), and/or trust advisor(s).
5. If any responsive document was, but is no longer, in Ms. Ruesch's possession, custody or control, state what disposition was made of it, the reason for such disposition and who has possession or control of the document.
6. Ms. Ruesch can "**exercise control**" by acting directly or indirectly. Indirect control includes, but is not limited to, the use of nominees, agents, powers of attorney, protectors, advisors, trusts, letter of wishes, by-laws, letters of direction, or any device whatsoever.
7. Ms. Ruesch has "**signature or other authority**" over an account if the she can control the disposition of money or other property in the account by delivery of a document containing the her signature—either alone or with the signature of other person(s) and/or with code word(s) and/or code name(s)—to the bank or other person with whom the account is maintained, or if she can exercise comparable authority over the account by direct or indirect communication with the bank or other person with whom the account is maintained, either orally or by some other means.

ATTACHMENT 1 for FORM 2039 SUMMONS

dated December 5, 2014

issued to Vivian Ruesch

in the matter of : Mr. James Mellon

9. If Ms. Ruesch claims a "**privilege**" for any document responsive to any request, or any part of such document, specify:

- a. name and title of the author;
- b. date appearing on such document or, if undated, the date or approximate dates such document was created;
- c. name and title of each addressee and of each recipients of the document and/or copies thereof;
- d. subject matter of the document;
- e. name and address of each person having present possession, custody, or control of such document and/or copies thereof;
- f. privilege or protection claimed; and
- g. number of the request(s) to which the production of the document would otherwise be responsive.

10. If Ms. Ruesch not have one or more of the requested items or do not know the answer to one or more of the questions asked, but she knows who does, please state the name, address, and phone number or other contact information for each such person in your response to the request or question.

# EXHIBIT 5





# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

12/12/2014

Time

2:00 PM

How  
Summons  
Was  
Served

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.2. ☐ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): \_\_\_\_\_**SIGNED BY:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature

Title

PLAINTIFF AGENT

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: \_\_\_\_\_

12/15/2014

Time: \_\_\_\_\_

9:00 AM

Name of Noticee: \_\_\_\_\_

JAMES R. MEHLON

Address of Noticee (if mailed): \_\_\_\_\_

CHALET FVALU, TAL STADLER 40, 7250 KLOSTERLIN  
SWITZERLAND

How  
Notice  
Was  
Given

☒ I gave notice by certified or registered mail to the last known address of the noticee.☐ I gave notice by handing it to the noticee.☐ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any): \_\_\_\_\_☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.☐ No notice is required.

Signature

Title

PLAINTIFF AGENT

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title

# EXHIBIT 6





# Summons

In the matter of Vivian RueschInternal Revenue Service (Division): Large Business & InternationalIndustry/Area (name or number): International Individual CompliancePeriods: for the tax periods ended December 31, 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012**The Commissioner of Internal Revenue**To: Vivian RueschAt: 1107 5th Avenue, Apt 8N, New York, NY 10128

You are hereby summoned and required to appear before Gary Frangipane and/or designee  
 an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers,  
 and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the  
 administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

SEE ATTACHMENT 1

**Do not write in this space****Business address and telephone number of IRS officer before whom you are to appear:**290 Broadway, 6th FL, Group #1561, New York, NY 10007 / (212) 436-1235**Place and time for appearance at** 290 Broadway 6th Floor, New York, NY 10007Department of the Treasury  
Internal Revenue Service[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 10-2010)

on the 28th day of January, 2015 at 9:30 o'clock A m.Issued under authority of the Internal Revenue Code this 5th <sup>(year)</sup> day of December, 2014 <sup>(year)</sup>**Gary Frangipane**

Digitally signed by Gary Frangipane  
 DN: cn=Gary Frangipane, o=Internal Revenue Service,  
 ou=IRC Group 1561, email=gary.frangipane@irs.gov, c=US  
 Date: 2014.12.05 15:53:28 -0500

Signature of issuing officer

**Anthony Duca**

Signature of approving officer (if applicable)

Revenue Agent

Title

Supervisory Revenue Agent

Title

ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Vivian Ruesch

**Bank Records**

1. For each of the following requests, produce the requested information for both domestic and foreign accounts, include every account over which you had signature authority and/or other authority and/or over which you exercised control during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012. These requests include, but are not limited to, your personal accounts, joint accounts, business accounts, rental accounts, trust accounts, IBC accounts, LLC accounts, other corporate accounts.

- A. Produce any and all records required to be maintained pursuant to 31 C.F.R. §1010.420 (§103.32 prior to March 1, 2011) relating to foreign financial accounts that you had/have a financial interest in, or signature authority over, including records reflecting the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during each specified year.
- B. For each account produce the documents identifying the bank and/or financial institution name, address, and telephone number.
- C. For each bank account, produce all documents in your possession, custody, and control including, but not limited to:
  - a. Account application (regardless of date)
  - b. Monthly or periodic statements
  - c. Wire transfer authorizations and confirmations
  - d. Deposit slips and deposited items
  - e. Credit and debit memos and advices
  - f. Canceled checks
  - g. Passbooks
  - h. Certificates of deposit
  - i. Letters of credit
  - j. Money orders
  - k. All correspondence
  - l. All memorandum files maintained by the bank reflecting communications with yourself or anyone on your behalf
  - m. All documents verifying the origin of all funds used to open the accounts or deposited into the accounts (regardless of date)

ATTACHMENT 1 for FORM 2039 SUMMONS

dated December 5, 2014

issued to Vivian Ruesch

in the matter of : Vivian Ruesch

- n. Signature cards (regardless of date)
- o. Substantiation of expenses associated with the account
- D. For each bank account, produce the Know Your Customer Account information given to and maintained by the bank by you or on your behalf, including but not limited to all account set up documents (regardless of date), such as signature cards, opening deposit slips, passport copies, certificates of beneficial ownership, letters of reference, certificates of clean funds and/or other sources of Anti-Money Laundering documentation.
- E. For each certificate of deposit, time deposit or equivalent account, produce all statements reflecting the purchase, earnings, basis, redemption and disposition of the deposit account.
- F. For all transfers of funds between any and all bank accounts and/or financial accounts, produce:
  - a. List of transfers
  - b. Documents showing the source of the funds transferred
  - c. Documents showing the deposits of funds transferred
  - d. Advice memos, correspondence or other directions the taxpayer sent or received
- G. All documents relating to foreign and domestic credit, debit, ATM or charge accounts produce:
  - a. Original cards (the IRS will make copies and return to you)
  - b. Card applications (regardless of date)
  - c. Agreements (regardless of date)
  - d. Customer relationship records identifying the persons with any authority over the accounts
  - e. Monthly or periodic statements
  - f. Charge receipts
  - g. Cash advance confirmations
  - h. Payments documentation whether paper, electronic or other media

**BROKERAGE ACCOUNTS, MUTUAL FUNDS, AND SECURITY ACCOUNTS**

2. For each of the following requests produce the requested information for both domestic and foreign brokerage accounts, mutual funds and security accounts, include

ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Vivian Ruesch

every account over which you had signature authority and/or other authority and/or over which you exercised control during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012. Include accounts controlled directly, indirectly, through nominees, agents, powers of attorney, letters of direction and any device whatsoever. These requests include, but are not limited to your personal accounts, joint accounts, business accounts, rental accounts, trust accounts, IBC accounts, LLC accounts, other corporate accounts.

- A. Produce any and all records required to be maintained pursuant to 31 C.F.R. §1010.420 (§103.32 prior to March 1, 2011) relating to foreign financial accounts that you had/have a financial interest in, or signature authority over, including records reflecting the name in which each such account is maintained, the number or other designation of such account, the name and address of the foreign bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during each specified year.
- B. For each bank account, produce all documents in your possession, custody, control, including but not limited to:
  - a. Account application (regardless of date)
  - b. Monthly or periodic statements
  - c. Annual account summaries
  - d. Performance reports
  - e. Directions given to the financial institution on investment strategies and diversification
  - f. Authorizations and confirmations on specific trades
  - g. Substantiation of basis for all stocks and other investments held in the accounts
  - h. Wire transfer authorizations and confirmations
  - i. All correspondence
  - j. All memorandum files maintained by the bank reflecting communications with yourself and/or anyone on your behalf
  - k. All documents verifying the origin of all funds used to open the accounts or deposited into the accounts (regardless of date)
  - l. Substantiation of expenses associated with the accounts

ATTACHMENT 1 for FORM 2039 SUMMONS

dated December 5, 2014

issued to Vivian Ruesch

in the matter of : Vivian Ruesch

**OWNERSHIP OF ENTITIES AND STRUCTURES**

3. For each of the following requests, produce the requested information for both domestic and foreign entities/structures, include each entity/structure in which the taxpayer exercised control and/or held an ownership interest, legal interest, fiduciary interest and/or beneficial interest at any time during the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012.

- A. For each entity/structure, produce all documents relating to the creation and operation of each entity/structure including but not limited to:
  - a. Organizational documents, deeds of incorporation, by-laws, registrations, articles of incorporation, statutes, memoranda of association, partnership agreements, joint venture agreements (regardless of date)
  - b. Ownership documents including those reflecting your percentage of legal ownership, percentage of beneficial ownership, and all changes of ownership (regardless of date)
  - c. Stock book records
  - d. Documents designating beneficiaries, designating trustees, designating protectors, designating partners, designating percentage ownership
  - e. Correspondence files
  - f. Powers of attorney, letters of wishes, letters of direction or similar documents granting authority to agents to act on behalf of the entity/structure
- B. For each entity/structure, produce all books and records including, but not limited to:
  - a. General ledgers
  - b. General journals
  - c. Sales journals and similar records of sales
  - d. Cash receipt journals and similar records of cash receipts
  - e. Cash disbursement journals and similar records of cash disbursements
  - f. Account payable journals and similar records of accounts payable
  - g. Payroll journals and similar records of payroll
  - h. Sales invoices
  - i. Real estate closing records
  - j. Minute books

ATTACHMENT 1 for FORM 2039 SUMMONS  
dated December 5, 2014  
issued to Vivian Ruesch  
in the matter of : Vivian Ruesch

- k. Contracts and agreements
  - l. Records of bank, brokerage and other investment accounts
  - m. Financial statements-both audited and unaudited-including but not limited to income statements and balance sheets
  - n. Rental agreements
  - o. Documents reflecting rental income and expenses
  - p. Correspondence files
  - q. Certificates of good standing
  - r. Records reflecting the names, street addresses, e-mail addresses and telephone numbers of the owners
  - s. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the board of directors, board of supervisors and managing directors
  - t. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of the officers and all employees
  - u. Records reflecting the names, street addresses, e-mail addresses, and telephone numbers of all business partners
  - v. All records of dissolution, termination, name change, winding up or similar record of cessation of operations
  - w. Foreign tax returns
- C. For each entity/structure produce all documents distributed, sent and/or transmitted by or to any legal, fiduciary and/or beneficial owners to and from professionals (e.g., attorneys, accountants, bankers, brokers, trust advisory, etc.), including but not limited to contracts, agreements, advisories, schedules, letters, memoranda, notes and instructions.
- D. For each entity/structure, produce documents reflecting the name, address and telephone number of the person(s)controlling the assets of the entity/structure.
- E. All written contracts, agreements, and all other documents pertaining to the assignment and transfer of ownership interest in and rights to use the real, personal or intangible property to you or on your behalf.
- F. All powers of attorney giving you authority to act on behalf of any person or entity.
- G. All powers of attorney executed by you giving another the authority to act on your behalf or on behalf of any person or entity over which you exercised control.



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- H. All certificates of beneficial ownership, stock certificates, including bearer shares or other similar evidence of ownership interests owned by the taxpayer.
- I. All profession and commercial licenses owned by you directly or indirectly

**PERSONAL OWNERSHIP**

4. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012:

- A. All documents reflecting real estate owned by you directly or indirectly including but not limited to purchase and sale agreements, mortgages, deeds, closing documents, property records, tax records, and insurance records.
- B. All documents reflecting real estate owned jointly by you and your husband and/or any entity owned and/or controlled by either/both of you. Documents should include, but are not limited to purchase and sale agreements, mortgages, deeds, closing documents, property records, tax records, and insurance records.
- C. All documents reflecting automobiles, SUVs, RVs, trucks, boats and airplanes owned by you and/or your husband directly or indirectly including but not limited to purchase and sale agreements, titles, registration, property records, tax records and insurance records
- D. All records reflecting income earned by you worldwide.
- E. All records reflecting your U.S. sources of income and withholding

**TRAVEL**

5. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012:

- A. Produce all of your original U.S. passports, both current and expired
- B. Produce all of your original foreign passports, both current and expired
- C. If a passport was lost or stolen, produce a copy of the report to the Embassy or Consulate and a copy of the Form DS-64
- D. Produce all records of foreign travel during the years January 1, 2005 through December 31, 2012 including but not limited to, commercial transportation, private leasing and vehicles/aircraft/boats owned or leased by the taxpayer.

**RENTAL INFORMATION**

6. For the following request, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012:

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- A. Produce all residential and commercial leases and similar agreements signed by you or on your behalf.
- B. Produce all residential and commercial leases and similar agreements signed by any entity on your behalf and/or for your benefit.
- C. Produce all payment records related to the leases and similar agreements, paid directly and/or indirectly by you, on your behalf, and/or for your benefit.

**U.S. TAX RETURNS**

7. For the following request, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012:

- A. Produce all state and local tax returns prepared, whether or not filed, including but not limited to New York.
- B. Produce all federal tax returns prepared by you or on your behalf, whether or not filed.
- C. Produce all documents relating to the preparation of all federal, state and local, whether or not a return was filed.
- D. All documents reflecting tax advice relating to filing requirements, filing status and other tax advice

**FOREIGN TAX RETURNS**

8. For the following request, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012:

- A. Produce all foreign tax returns prepared by you or on your behalf, whether or not filed
- B. Produce all documents related to inquiries and/or notices by foreign tax officials relating to your tax obligations
- C. Produce all payment of tax records related to all foreign tax filings

**MARITAL**

9. For each of the following request, produce records both foreign and domestic regardless of the date:

- A. All marriage records, including but not limited to, marriage licenses, marriage certificates, prenuptial or post nuptial agreements, separation agreements, property settlements, annulments, divorce decrees, and/or spousal support agreements (regardless of date)



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**NON-TAXABLE SOURCES OF INCOME**

10. For each of the following requests, produce records both foreign and domestic for each of the years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012:

- A. All documents reflecting any inheritance, foreign or domestic, that you received (regardless of date), including but not limited to the will, documents identifying you as a beneficiary of the estate, documents reflecting the assets of the estates and all probate documents.
- B. All documents reflecting commercial and private loans made or obtained by you or on your behalf and which was in existence during any of the years 2005, 2006, 2007, 2008, 2009, 2010, 2012, including but not limited to, application (regardless of date), agreements and contracts and promissory notes (regardless of date), records of payment.
- C. All records pertaining to any non-taxable source of income including but not limited to gifts, insurance settlements, tax refunds, and tax exempt interest.

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**INSTRUCTIONS FOR THESE REQUESTS—READ CAREFULLY**

1. The term "**document(s)**" is used in the broadest sense and includes all attachments. Document(s) includes any written, typed, photo static, recorded, or otherwise visually reproduced communications or presentations, whether comprised of letters, words, numbers, pictures, sounds, symbols, or any combination thereof. Document(s) refers to all written, printed, typed, graphically, visually or aurally reproduced material of any kind, or other means of preserving thought or expression, and all tangible things from which information can be processed or transcribed. Further, "documents" include, but are not limited to:
  - a. Items designated as internal, confidential, "not to be disclosed" or private;
  - b. All electronic mail (e-mail), whether on an electronic disk and/or any other system or device which saves e-mails, attachments, links; and
  - c. Videotapes, audiotapes, CDs, cassettes, DVDs, films, flash drives (memory sticks, etc.), microfilm, computer files, computer discs, computer programs and other electronic media.
2. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or, by reason of subsequent modification or notation, are no longer identical), each nonidentical copy is a separate "**document**."
3. The taxpayer has "**possession, custody, or control**" if the taxpayer has actual or constructive possession of the document and/or can access the document upon inquiry and/or through a legal right to obtain the document.
4. All responsive documents in the taxpayer's possession, custody, or control should be provided, as well as all documents, in the possession, custody, or control of the taxpayer's agents, employees, and/or representatives, including, but not limited to, responsive documents in the possession, custody, or control of taxpayer's lawyer(s), accountant(s), banker(s), advisor(s), and/or trust advisor(s).
5. If any responsive document was, but is no longer, in taxpayer's possession, custody or control, state what disposition was made of it, the reason for such disposition and who has possession or control of the document.
6. The term "**taxpayer**" means the individual under audit. The term "**taxpayer**" also means all foreign or domestic entities or structures over which the individual taxpayer **exercises control** including, but not limited to, corporations, partnerships, associations, limited liability companies, trusts, estates, foundations, escrows, charitable foundations, banks, and nominees.
7. A taxpayer can "**exercise control**" by acting directly or indirectly. Indirect control includes, but is not limited to, the use of nominees, agents, powers of attorney, protectors, advisors, trusts, letter of wishes, by-laws, letters of direction, or any device whatsoever.

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8. The taxpayer has “**signature or other authority**” over an account if the taxpayer can control the disposition of money or other property in the account by delivery of a document containing the taxpayer’s signature—either alone or with the signature of other person(s) and/or with code word(s) and/or code name(s)—to the bank or other person with whom the account is maintained, or if the taxpayer can exercise comparable authority over the account by direct or indirect communication with the bank or other person with whom the account is maintained, either orally or by some other means.

9. If the taxpayer claims a “**privilege**” for any document responsive to any request, or any part of such document, specify:

- a. name and title of the author;
- b. date appearing on such document or, if undated, the date or approximate dates such document was created;
- c. name and title of each addressee and of each recipients of the document and/or copies thereof;
- d. subject matter of the document;
- e. name and address of each person having present possession, custody, or control of such document and/or copies thereof;
- f. privilege or protection claimed; and
- g. number of the request(s) to which the production of the document would otherwise be responsive.

10. If you do not have one or more of the requested items or do not know the answer to one or more of the questions asked, but you know who does, please state the name, address, and phone number or other contact information for each such person in your response to the request or question.

# EXHIBIT 7



# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

12/12/2017

Time

2:00 PM

How  
Summons  
Was  
Served

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.2. ☐ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any):

SIGNED BY:

Signature:

Date:

12/12/17

Printed Name:

A. Ortiz

Signature

Title

REVENUE AGENT

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: \_\_\_\_\_

Time: \_\_\_\_\_

Name of Noticee: \_\_\_\_\_

Address of Noticee (if mailed): \_\_\_\_\_

How  
Notice  
Was  
Given

☐ I gave notice by certified or registered mail to the last known address of the noticee.☐ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).☐ I gave notice by handing it to the noticee.☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.☒ No notice is required.

Signature

Title

REVENUE AGENT

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title